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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,237	03/26/2004	Matthew J. Banet	0114079.00144US1	1767
78994 7590 01/25/2010 WilmerHale/Triage Wireless 60 State Street Boston, MA 02109				
EXAMINER SORIANO, BOBBY GILES				
ART UNIT		PAPER NUMBER		
3769				
NOTIFICATION DATE		DELIVERY MODE		
01/25/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

teresa.carvalho@wilmerhale.com

sharon.matthews@wilmerhale.com

michael.mathewson@wilmerhale.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/810,237

**Applicant(s)**

BANET, MATTHEW J.

**Examiner**

Bobby Soriano

**Art Unit**

3769

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 23 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-18.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Henry M. Johnson, III/  
Supervisory Patent Examiner, Art Unit 3769

/Bobby Soriano/  
Examiner, Art Unit 3769

Continuation of 11, does NOT place the application in condition for allowance because: The Applicant's arguments filed on December 23, 2009 have been fully considered but are not persuasive. The Applicant argues that the applied prior art "Kumar" does not 1) make any mention of a "web services interface" as defined in the application and pending claims 2-11 and 13-17, and that "Mills" does not disclose a blood pressure monitor with an optical sensor adapted to be worn on a patient's wrist.

The Examiner disagrees with the Applicant's position. As to the first point, the Applicant has not provided any type of explicit definition or meaning of the phrase "web services interface" in the specification, only examples of use. The limitation as stated in independent claims 1 and 18 is met by the Internet browser interface as cited in Kumar paragraph [0086], which would allow a person to query information from the web as exemplified in paragraph [021] of the Applicant's specification. The claim limitations further defining the web services interfaces in claims 2-11 and 13-17 were not required by the rejection of the independent claims as cited in Kumar, but are instead met by Kumar in view of "Lynn" and "Northrup".

As to the second point, Mills is not required to disclose a blood pressure monitor with an optical sensor adapted to be worn on a patient's wrist. Mills is required on only to disclose an optical sensor which Kumar does not disclose. Kumar already discloses body worn blood pressure monitoring devices, including continuous blood pressure watches, as previously cited in Kumar paragraph [0071]. The Examiner further notes that the use of the claim language "adapted to" in the claims is understood by the Examiner to mean intended use of a structural element in a system claim. Intended use of a structural element in an apparatus-type claim is not required to be explicitly taught in the applied prior art, so long as the structural element would be capable of performing said intended use.

The amendments to the claims will still be entered as they resolve issues towards minor corrections as stated in Applicant's Remarks.